

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES,

Plaintiff,

-against-

ORDER

11 CV 4822 (DRH) (WDW)

GLORIA LEAP, LAWRENCE EUGENE
LaTERZA, and NASSAU COUNTY
DEPARTMENT OF SOCIAL SERVICES,

Defendants.

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HURLEY, Senior District Judge:

On January 7, 2013, plaintiff moved pursuant to Federal Rule of Civil Procedure 55(b) for a default judgment against defendants Gloria Leap, Lawrence Eugene LaTerza, and Nassau County Department of Social Services. (*See* Docket No. 17.) On January 22, 2013, this matter was referred to United States Magistrate Judge William D. Wall to issue a report and recommendation as to whether plaintiff had demonstrated that the allegations in the Complaint establish the defendants' liability such that the motion for default judgment should be granted, and if so, to determine the appropriate amount of damages, costs, and or/fees, if any, to be awarded. On March 6, 2013, Judge Wall issued a Report and Recommendation which recommended that "the motion be denied at this time without prejudice and that the plaintiff be given an opportunity to file and serve a Second Amended Complaint that will include sufficient allegations in support of the relief sought." (Docket No. 19 at 1.) More than fourteen days have elapsed since service of the Report and Recommendation and no party has filed an objection.

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has reviewed the Report and Recommendation for clear error, and finding none, now concurs in both its reasoning and its result. As such, the Court adopts Judge Wall's March 6, 2013 Report and Recommendation as if set forth herein. Accordingly, plaintiff's motion for a default judgment is denied without prejudice and plaintiff is granted leave to file and serve a Second Amended Complaint.¹ The Second Amended Complaint must be filed no later than April 30, 2013. Should plaintiff not file an amended pleading by this deadline, the action will be marked closed. Plaintiff's counsel is directed to serve a copy of this Order on the remaining defendants and to file proof of service on ECF.

SO ORDERED.

Dated: Central Islip, New York
April 17, 2013

/s/
Denis R. Hurley
United States District Judge

¹ In filing the amended pleading, plaintiff should take into consideration the Court's June 6, 2012 Order which questioned whether the Nassau County Department of Social Services is the proper defendant as distinct from the County of Nassau. (*See* Docket No. 14.)